

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

JAMES EDWARD ELLIOTT,

Plaintiff,

v.

JOHN CRANE, INC

Et Al.

Defendants

Civil Action No.: 4:22-cv-00072

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that under 28 U.S.C. §§ 1332, 1441 and 1446, Defendant John Crane Inc. (“JCI”), by counsel, timely removes the above-captioned action from the Circuit Court for the City of Newport News, Virginia to the United States District Court for the Eastern District of Virginia.¹ This Court has original jurisdiction under 28 U.S.C. §§ 1332 and 1441, *et seq.* Complete diversity of citizenship exists between Plaintiff and JCI, and it is facially evident from the Complaint that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of removal, JCI states as follows:

1. On June 23, 2022, Plaintiff James Edward Elliot (“Plaintiff”) filed a complaint captioned *James Edward Elliot v. John Crane, Inc, et al.*, Case No.: CL2202355T-00, in the Circuit Court

¹ By filing this removal action, JCI does not waive any defenses, objections, or motions available under state or federal law. JCI expressly reserve the right to move for dismissal of some or all of Plaintiff’s claims and/or seek dismissal on lack of personal jurisdiction, improper venue, the doctrine of forum non conveniens, or any other applicable grounds.

for the City of Newport News, Virginia, against JCI and 13 other defendants, including A.W. Chesterton, Inc., Albany International Corp., CBS Corporation, Ferguson Enterprises, LLC, General Electric Company, Goulds Pumps LLC, J. Henry Holland Corporation, Metropolitan Life Insurance Company, Redco Corporation, Scapa North America Inc., Union Carbide Corporation, Waco, Inc., and Warren Pumps LLC (collectively “Defendants”). *See* Complaint, **Exhibit A**.

2. Plaintiff alleges that he developed mesothelioma due to exposure to asbestos-containing products allegedly manufactured, distributed and/or sold by the Defendants.

3. Venue is proper in this Court under 28 U.S.C. § 1441(a) because the Circuit Court of Newport News is located within the Eastern District of Virginia.

4. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, orders, and other documents on file in the Circuit Court of Newport News, Virginia is included with **Exhibit A**. With the filing of this Notice of Removal, moreover, JCI is paying the prescribed filing fee, filing proof of filing the Notice with the Clerk of the State Court along with proof of service on all adverse parties, and complying with all local rules. A copy of the notice provided to the state court (without exhibits) is attached as **Exhibit B**.

5. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because neither JCI nor any other defendant has been served with the Summons and Complaint as of the filing of this removal action, and this Notice of Removal is filed within thirty (30) days of receipt by JCI of the initial pleading.

1. Removal of this action is proper under 28 U.S.C. §§ 1332 because there is complete diversity of citizenship based on the following:

a. Plaintiff is a citizen of the Commonwealth of Virginia.

- b. JCI is a Delaware corporation with its principal place of business in Morton Grove, Illinois.
 - c. Based upon a contemporaneous review of the Newport News Circuit Court's on-line docket (a June 28, 2022 screenshot of which is attached hereto as **Exhibit C**) and the undersigned counsel's telephone call with the clerk of the Newport News Circuit Court, JCI is informed that no other defendant – including any forum defendant – has been served at this time.
 - d. Because none of the remaining Defendants has been “properly joined and served” as of the time of this removal, their citizenship is not relevant for purposes of determining whether complete diversity of citizenship exists. 28 U.S.C. 1441(b)(2); *Spigner v. Apple Hosp. Reit, Inc.*, No. 3:21cv758 (DJN), 2022 U.S. Dist. LEXIS 86059, at *13 (E.D. Va. Mar. 1, 2022); *see also, Blankenship v. Napolitano*, Civil Action No. 2:19-cv-00236, 2019 U.S. Dist. LEXIS 118731, at *4 (S.D. W. Va. July 17, 2019) (applying plain meaning of 28 U.S.C. § 1441(b)(2) to permit removal of cause of action before forum defendant has been served.)
 - e. Thus, complete diversity of citizenship exists between plaintiff and JCI at the time of this Notice of Removal, for purposes of 28 U.S.C. § 1332 and 28 U.S.C. §1441.
2. Plaintiff's Complaint seeks compensatory damages in the amount of \$20,000,000.00 and punitive damages in the amount of \$350,000.00. The matter in controversy therefore exceeds the sum or value of \$75,000, exclusive of interest and costs, satisfying the jurisdictional amount for federal diversity jurisdiction under 28 U.S.C. § 1332.
3. Removal of this action is proper under 28 U.S.C. §§ 1332, 1441 and 1446 because the removal is timely, complete diversity exists between JCI and Plaintiff, and the amount in

controversy exceeds \$75,000. Accordingly, JCI hereby Plaintiff's lawsuit to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Dated: June 28, 2022

**JOHN CRANE INC.,
Defendant**

By: /s/ Eric G. Reeves
Counsel

Eric G. Reeves (VSB # 38149)
Laura May Hooe (VSB # 84170)
Christian F. Tucker (VSB #92571)
MORAN REEVES & CONN PC
1211 East Cary Street
Richmond, Virginia 23219
Telephone: (804) 421-6250
Facsimile: (804) 421-6251
ereeves@moranreevesconn.com
lmhooe@moranreevesconn.com
ctucker@moranreevesconn.com
Counsel for John Crane Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of June, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have served the following counsel for Plaintiff via electronic mail and United States first-class mail, and all other parties by United States First Class mail addressed to their registered agents:

Robert R. Hatten, Esquire
Hugh B. McCormick, Esquire
Daniel R. Long, Esquire
PATTEN WORNOM HATTEN & DIAMONSTEIN, L.C.
12350 Jefferson Avenue, Suite 300
Newport News, Virginia 23602

Nathan D. Finch
MOTLEY RICE LLP
401 9th Street, NW, Suite 630
Washington DC 20004
Counsel for Plaintiff

A.W. CHESTERTON, INC.
860 Salem Street
Groveland, MA 01384
SERVE: Secretary of the Commonwealth
Patrick Henry Building, 4th Floor
1111 East Broad Street
Richmond, VA 23219

ALBANY INTERNATIONAL CORP.
United Agent Group Inc. (Registered Agent)
425 W. Washington St., Ste. 4
Suffolk, VA 23434-5320

CBS CORPORATION, f/k/a Viacom, Inc.,
Corporation Service Company (Registered Agent)
100 Shockoe Slip, 2nd Floor
Richmond, VA 23219

FERGUSON ENTERPRISES, LLC
Corporate Creations Network Inc. (Registered Agent)
425 W. Washington St., Ste. 4

Suffolk, VA 23434-5320

GENERAL ELECTRIC COMPANY

CT Corporation System (Registered Agent)
4701 Cox Road, Suite 285
Glen Allen, VA 23060

GOULDS PUMPS LLC

CT Corporation System (Registered Agent)
4701 Cox Road, Suite 285
Glen Allen, VA 23060

J. HENRY HOLLAND CORPORATION

Michelle Fanny Dallman, Esquire (Registered Agent)
440 Monticello Court, Suite 2200
Norfolk, VA 23510

METROPOLITAN LIFE INSURANCE COMPANY

CT Corporation System (Registered Agent)
4701 Cox Road, Suite 285
Glen Allen, VA 23060

REDCO CORPORATION f/k/a CRANE CO.

100 Stamford Place
Stamford, CT 06902
SERVE: Secretary of the Commonwealth
Patrick Henry Building, 4th Floor
1111 East Broad Street
Richmond, VA 23219

SCAPA NORTH AMERICA INC.

11 Great Pond Dr.
Windsor, CT 06095
SERVE: Secretary of the Commonwealth
Patrick Henry Building, 4th Floor
1111 East Broad Street
Richmond, VA 23 219

UNION CARBIDE CORPORATION

CT Corporation System (Registered Agent)
4701 Cox Road, Suite 285
Glen Allen, VA 23060

WACO, INC.

Daniel M. Walker (Registered Agent)
5450 Lewis Road
Sandston, VA 23150

WARREN PUMPS LLC

82 Bridges Ave.

Warren, MA 01083-0969

SERVE: Secretary of the Commonwealth
Patrick Henry Building, 4th Floor
1111 East Broad Street
Richmond, VA 23219

_____/s/ Eric G. Reeves